

REMARKS

1. Submission of Supplemental Reissue Declaration

As indicated in the Third Supplemental Amendment filed on January 24, 2006, Applicants respectfully submit herewith the documents to satisfy the requirement for a supplemental reissue declaration with a statement of error signed by all inventors, to supplement the original reissue declaration.

Pursuant to MPEP 1414.01, if additional defects or errors are corrected in the reissue after the filing of the application and the original reissue oath or declaration, a supplemental reissue oath/declaration must be filed. The attached, newly executed document entitled "Supplemental Reissue Declaration and Statement of Error" is fully compliant with the requirements for a supplemental reissue oath/declaration and states that every error in the patent which was corrected in the present reissue application, and is not covered by the prior declaration submitted in this application, arose without any deceptive intention on the part of the applicant.

In particular, the inventors named in the present supplemental oath/declaration, Arthur E. Uber, III, Seid Waddell, John Stulen, Jon E. Manley, Salvatore J. Dedola and Gordon C. Newell, believe U.S. Reissue Patent No. RE 36,648 ("the '648 patent"), granted on April 11, 2000, which is a reissue patent of the original U.S. Patent No. 5,494,036 ("the '036 patent"), granted on February 27, 1996, to be partly inoperative through error of one or more inventor(s) incorrectly NOT named in the '648 reissue patent and the '036 patent, and that such error arose without any deceptive intention on the part of the inventors. The inventor Gordon C. Newell was not named as one of the inventors in the '036 patent without any deceptive intention, however, the inventors each believe he should be named as one of the inventors in this continuation reissue application. The inventor Salvatore J. Dedola was not named as one of the inventors in the '036 patent without any deceptive intention, however, the inventors each believe he should be named as one of the inventors in this continuation reissue application.

Furthermore, the inventors each believe the '036 patent to be partly inoperative by reason of overclaiming. Specifically, the inventors claimed more than they had a right to claim by

claiming a “communicating link between the system controller and the infusion apparatus control means” in claim 9 of the ‘036 patent, which was later rejected as unpatentable during prosecution of the ‘648 patent over the Saini and Neer references of record. For this reason, the inventors each verily believe the ‘036 patent to be partly inoperative; and all errors specified herein and corrected in this continuation reissue application arose without any deceptive intention on their part.

Therefore, the named inventors each declare that they have no disagreement with the inventorship change in this continuation reissue application; and every error in the patents which was corrected in the present continuation reissue application, and is not covered by the prior declaration submitted in this application, arose without any deceptive intention on their part. This Supplemental Reissue Declaration and Statement of Error supplements the prior Reissue Declarations made and filed in this continuation reissue application.

2. Additional Matters of Clarification

Turning to other matters of clarification, Applicants would like to correct for the record the U.S. Patent Bar Registration No. of Robert J. Walters as indicated on the January 19, 2006 Interview Summary form. Mr. Walters’ correct U.S. Patent Bar Registration No. is 40,862.

Applicants would also like to clarify the location of the Exhibits in the materials filed along with the January 24, 2006 Fifth Supplemental Information Disclosure Statement (IDS). The Fifth Supplemental IDS contained 21 pages of relevant description of the litigation proceedings involving related patents, and 6 pages of references listed on form PTO-1449. The Fifth Supplemental IDS description of the litigation proceedings discusses the context of various papers listed on the form PTO-1449, and also references on page 2, line 15, Exhibit A “Overview of Litigation Involving ‘602 Patent and ‘648 Patent.” The Overview of Litigation Involving ‘602 Patent and ‘648 Patent and its Exhibits 1-7 was submitted for the Examiner’s review with the January 24, 2006 papers, however, it was not indicated by separate cover as Exhibit A. Therefore, the Examiner’s attention is directed to the document filed on even date with the same

title, despite the lack of a separate cover labeled "Exhibit A." In the interest of not overburdening the Office with multiple copies of the same document, Applicants have not resubmitted the Overview of Litigation Involving '602 Patent and '648 Patent with a cover sheet identifying it as Exhibit A, but would be glad to do so if requested.

Similarly, the Fifth Supplemental IDS referenced on page 3, line 10, that "Defendant's Notice Under 35 U.S.C. §282" can be found as Exhibit B and as Cite No. AJ on the form PTO-1449 attached thereto. It appears that Exhibit B containing a separate copy of Defendant's Notice Under 35 U.S.C. §282 was not provided in the January 24, 2006 filing. However, since the same document was also cross-referenced as Cite No AJ on the form PTO-1449, which was provided to the Office on even date, the reference is already at the Examiner's disposal for review. Applicants have not resubmitted another copy of the Defendant's Notice Under 35 U.S.C. §282 with a cover sheet identifying it as Exhibit B, but would be glad to do so if requested.

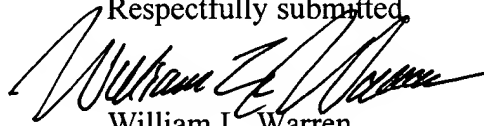
Serial No.: 09/545,582

Filing Date: April 7, 2000

COMMUNICATION FOR SUBMISSION OF
SUPPLEMENTAL REISSUE DECLARATION
AND FURTHER CLARIFYING REMARKS

It is believed that this continuation reissue application is now in condition for allowance and a notice to that effect is earnestly solicited. The Examiner is encouraged to call the undersigned attorney at 404-853-8081 if doing so will facilitate prosecution of the application. No fees are believed to be due at this time. However, the Commissioner is hereby authorized to charge any additional fees due or credit any overpayment to Deposit Account 19-5029 (Ref.: 23578-0010).

Respectfully submitted,



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